

IN THE UNITED STATES COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

STA-RITE INDUSTRIES, LLC F/K/A§  
SHURFLO, LLC F/K/A SHURFLO PUMP§  
MANUFACTURING COMPANY §

CAUSE NO. 6:08CV59

V. §

JURY TRIAL DEMANDED

ITT CORPORATION, ITT INDUSTRIES,§  
FLOJET CORPORATION, ITT JABSCO, INC.,§  
AND RULE INDUSTRIES, INC. §

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**DEFENDANTS' PROPOSED VERDICT FORM**

**QUESTION NO. 1:**

Do you find that Sta-Rite has proven, by a preponderance of the evidence, that ITT infringes claims 14, 15 or 17 of the '882 Patent, claims 10, 11, 12, 13 or 14 of the '183 Patent, claim 5 of the '662 Patent, claims 18, 21, 22 or 23 of the '767 Patent, claims 1, 2, 3, 4, 5, 6 or 7 of the '936 Patent and/or claim 11 of the '437 Patent?

**Answer "Yes" or "No" for each claim:**

	<b>Infringement?</b>
<b><u>'882 Patent</u></b>	
<b>Claim 14</b>	_____
<b>Claim 15</b>	_____
<b>Claim 17</b>	_____
<b><u>'183 Patent</u></b>	
<b>Claim 10</b>	_____
<b>Claim 11</b>	_____
<b>Claim 12</b>	_____
<b>Claim 13</b>	_____
<b>Claim 14</b>	_____
<b><u>'662 Patent</u></b>	
<b>Claim 5</b>	_____
<b><u>'767 Patent</u></b>	
<b>Claim 18</b>	_____
<b>Claim 21</b>	_____
<b>Claim 22</b>	_____
<b>Claim 23</b>	_____
<b><u>'936 Patent</u></b>	
<b>Claim 1</b>	_____
<b>Claim 2</b>	_____
<b>Claim 3</b>	_____
<b>Claim 4</b>	_____
<b>Claim 5</b>	_____
<b>Claim 6</b>	_____
<b>Claim 7</b>	_____
<b><u>'437 Patent</u></b>	
<b>Claim 11</b>	_____

**QUESTION NO. 2:**

If you have answered “Yes” to any of the claims in Question No. 1, for those claims you have found to be infringed, do you find that Sta-Rite has proven by clear and convincing evidence that ITT’s infringement was willful?

**Answer “Yes” or “No” only for those claims you have found infringed in Question No. 1.**

	<b>Willful Infringement?</b>
<b><u>‘882 Patent</u></b>	
Claim 14	_____
Claim 15	_____
Claim 17	_____
<b><u>‘183 Patent</u></b>	
Claim 10	_____
Claim 11	_____
Claim 12	_____
Claim 13	_____
Claim 14	_____
<b><u>‘662 Patent</u></b>	
Claim 5	_____
<b><u>‘767 Patent</u></b>	
Claim 18	_____
Claim 21	_____
Claim 22	_____
Claim 23	_____
<b><u>‘936 Patent</u></b>	
Claim 1	_____
Claim 2	_____
Claim 3	_____
Claim 4	_____
Claim 5	_____
Claim 6	_____
Claim 7	_____
<b><u>‘437 Patent</u></b>	
Claim 11	_____

**QUESTION NO. 3:**

Do you find that ITT proved by clear and convincing evidence that any of the following claims are invalid for the following reasons? “Yes” means the claims are invalid, and “No” means the claims are not invalid.

A. Because of public use or on sale before the critical date?

**Answer “Yes” or “No” for each claim.**

**‘936 Patent**

<b>Claim 1</b>	_____
<b>Claim 2</b>	_____
<b>Claim 3</b>	_____
<b>Claim 4</b>	_____
<b>Claim 5</b>	_____
<b>Claim 6</b>	_____
<b>Claim 7</b>	_____

B. Because ITT invented first?

**Answer “Yes” or “No” for each claim.**

**‘183 Patent**

<b>Claim 10</b>	_____
<b>Claim 11</b>	_____
<b>Claim 12</b>	_____
<b>Claim 13</b>	_____
<b>Claim 14</b>	_____

**‘662 Patent**

<b>Claim 5</b>	_____
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**‘767 Patent**

<b>Claim 18</b>	_____
<b>Claim 21</b>	_____
<b>Claim 22</b>	_____
<b>Claim 23</b>	_____

C. Because it is rendered obvious by the prior art?

**Answer “Yes” or “No” for each claim.**

**‘882 Patent**

Claim 14	_____
Claim 15	_____
Claim 17	_____

**‘183 Patent**

Claim 10	_____
Claim 11	_____
Claim 12	_____
Claim 13	_____
Claim 14	_____

**‘662 Patent**

Claim 5	_____
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**‘767 Patent**

Claim 18	_____
Claim 21	_____
Claim 22	_____
Claim 23	_____

**‘936 Patent**

Claim 1	_____
Claim 2	_____
Claim 3	_____
Claim 4	_____
Claim 5	_____
Claim 6	_____
Claim 7	_____

**‘437 Patent**

Claim 11	_____
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- D. Because the patent fails to provide an adequate written description of the claimed invention?

**'437 Patent**

**Claim 11** \_\_\_\_\_

**QUESTION NO. 4:<sup>1</sup>**

*If you have found that ITT has infringed any of the claims and those claims are valid (i.e. you have answered “yes” to any of the claims in question number 1, and “no” to all four section of question number 3 for the corresponding claim), then answer questions number 4 and number 5. Otherwise, do not answer the following questions; the jury foreperson should instead sign and date this Verdict Form and return it to the Security Officer.*

What sum of money, if any, paid now in cash, do you find should be awarded to Sta-Rite as damages adequate to compensate it as a reasonable royalty for infringing sales by ITT? Only award damages for those patent claims you find infringed and valid. Do not award damages for patent claims that you did not find infringed and valid.

For bracket-product sales, answer in dollars and cents, if any, for a reasonable royalty, and state the royalty rate.

\$ \_\_\_\_\_  
Royalty Rate: \_\_\_\_\_

For pump-product sales, answer in dollars and cents, if any, for a reasonable royalty, and state the royalty rate.

\$ \_\_\_\_\_  
Royalty Rate: \_\_\_\_\_

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<sup>1</sup> Format adapted from the Sample Verdict Form of the Model Patent Jury Instructions prepared by the National Jury Instruction Project, dated June 17, 2009; and the Sample Patent Verdict Form of Judge Davis' Orders and Forms, <http://www.txed.uscourts.gov/Judges/Davis/Orders&Forms.htm>.

**QUESTION NO. 5:<sup>2</sup>**

For any of the damages found in Question No. 4, do you find that Sta-Rite proved that the customer demand for each product is based on the patented features?

**Answer “Yes” or “No.”**

Answer: \_\_\_\_\_

Signed this \_\_\_\_\_ day of July, 2010

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**JURY FOREPERSON**

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<sup>2</sup> Instruction recommended by the Verdict Forms section of the Compensatory Damages Issues in Patent Infringement Cases, a Handbook for Federal District Court Judges, by the National Patent Jury Instructions committee, January 2010 at page 29 (<http://www.nationaljuryinstructions.org/damages>). See also, Uniform Jury Instructions For Patent Cases In The United States District Court For The District Of Delaware 6.4 (1993) (modified); *Rite-Hite Corp. v. Kelley Co.*, 56 F.3d 1538, 1550 (Fed. Cir. 1995) (en banc)